~~1952~~

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File No. B. Sales & Motor Spirit 52

Legal Deptt
B **BRANCH**

Subject:— A Bill to amend the Bombay Sales & Motor Spirit Taxation Act, 1946

A Bill No. XXI of 1952

Bom. Act No. XIII of 1952

P-16
E

File No. B. Sales & Motor Spirit /52

Gen. 194

873-B

Legal Department.

In place of the draft Bill at pages 5 to 8 ante. a revised draft Bill is sent herewith.

Clause 3- An amendment is proposed in section 9 to bring its wording in line with the wording of other penal provisions of the Act.

Clause 5. The expression "knowingly keeps in correct accounts" has been changed to "keeps false accounts". The word false implied knowledge to defraud (cf. section 464 of the Indian Penal Code.) A similar changes is made in the new section 12(2) in clause 6.

Clause 6. In the revised section 12(2) the expression "at empting to evade" used in the Department draft is wrong. Evade implies an attempt and there cannot be an attempt of an attempt. Moreover according to the general principle applicable to taxing enactments, a person is perfectly entitled to avoid the payment of duty if he can. The argument that his motive is to escape the payment of duty is irrelevant. (See per Farwell L.J. in A.G. V/S. The words have therefore been altered to attempt to commit an offence punishable under the Act.

The new section 15A proposed by the Department is mainly relatable to section 12. Therefore it has been inserted as section 12A.

II. The subject matter of the Bill falls under entry 54 in List II in the Seventh Schedule to the Constitution. The Bill does not require any sanction but requires the Governor's recommendation under article 207(1)

Sd/- J.R.Dhurandhar
31/3

O.C.

Additional Secretary to Government.

U.R. to F.D. No. 313-Confl. dated the 1st April 1952

Mjr/4/7
4 Cs.

19

No. 315-L

Legal Department.
Council Hall, Poona, 4th August 1952.

From
Shri K.J. Pathare,
Assistant Secretary to the Government of Bombay.

To
The Secretary to the Governor of Bombay.

Subject:- The Bombay Sales of Motor Spirit Taxation (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of the Governor the authentic copy of the Bombay Sales of Motor Spirit Taxation (Amendment) Bill. 1952 which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 18th July 1952 and the 25th July 1952 respectively.

2. The subject-matter of the Bill falls under entry 54 in List II in the Seventh Schedule to the Constitution of India. It is not necessary to reserve the Bill for the consideration of the President with reference to article 254(2) or any other article of the Constitution of India.

3. The date on which the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the items

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	:	Nos. 1,2 and 4 and two copies of item No. 3 of the
2. Bill as read for the third time and passed by Bombay Legislative Assembly and as introduced in the Bombay Legislative Counci.	:	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	:	
4. Extracts from the proceedings of the Bombay Legislative Assembly, dated the 18th July 1952 and of the Bombay Legislative Council, dated the 25th July 1952.	:	

papers noted in the mrgin. The Bill was not referred to a Select Committee.

Yours faithfully,

Sd/- K.J.Pathare,
Assistant Secretary to Government.

Copy forwarded with compliments to the Secretary to Government of Bombay, Finance Department.

Mjr/4/7
4 Cs.

No. 387-L
Legal Department
Council Hall, Poona, 18th August 1952.

From:
Shri J.R.Dhurandhar,
Additional Secretary to
the Government of Bombay.

To :
The Secretaty to the Governmemk of Bombay.

Subject:- The Bombay Sales of Motor Spirit Taxation (Amendment) Bill, 1952.

Sir,

With reference to the query made by paragraph 2 of your letter No. G.S., dated the 4th August 1952, I am directed to state that whenever a Bill is sent to the Governor for his assent the practice followed in this Department is to consider whether the Bill should be reserved for the c onsideration of the Present with reference to any article of the Conspitution e.g. Article 31(3), 254(2) and to indicate usually in the forwarding letter whether it shouldbe so reserved or not with reference to any such article. It was in accordance with this practice that Legal Departmmnt Letter No. 315-L, dated 4th August 1952 made a reference to article 254(2) although the subject-matter of the Bill in question did not fall in the Concurrent Legislative List (List III).

Yours faithfully

Sd/- J.R.Dhurandhar
18/8

o.c.

Additional Secretary to Governmant.

Mjr/4/7

5 Cs.

No. G.S- 27

From

Shri S.B.Kulkarni, IAS
Secretary to the Governor of Bombay

To

The Assistant Secretary to Government,
Legal Department, Council Hall, Bombay 1.

Raj Bhavan,
Agneshkhind, Poona 7,
August 4, 1952

Sir,

With reference to your letter No. 315-L dated August 4,1952, I am directed to return herewith the authentic copy of the Bombay Sales of Motor Spirit Taxation (Amendment) Bill, 1952, with the Governor's Assent signified thereon. The Governor has assented to the Bill to day, August 4, 1952.

2. As you have observed, the Bill falls under entry 54 in List II in the Seventh Schedule of the Constitution of India. Article 254(2) of the Constitution, however, refers to List III of the Seventh Schedule. The Governor will, therefore, be gald to know why a reference to article 254(2) is made in para. 2 of you letter under reference.

Yours faithfully,

Sd/- S.B.Kulkarni

Secretary to the Governor.

Mjr/4/7

4 Cs.

Publication of the Bombay Sales of Motor Spirit Taxations(Amendment) Act, 1952.

GOVERNMENT OF BOMBAY
Legal Department,
Resolution No. 12927
Bombay Castle, 4th August 1952.

RESOLUTION:- The law should be published as Bombay Act. No. XIII of 1952 in the Bombay Government Gazette, dated the 4th August 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act shouldbe forwarded to the Finance Department.

By order of the Governor of Bombay

S.L. CHAUDHARI,
Deputy Secretary to Government.

To

TheManager, Government Central Press , Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Finance Deptt.
The Finance Department,
The Examiner of Books and Publications,
The Bombay Legislature Department,
The Director of Publicity , Bombay,
The Lisiaon Officer for the Secretariat , Bombay
) with a copy of the Act

Mjr/4/7
4 Cs.

Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

THURSDAY, 19TH JUNE 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXI OF 1952.

A Bill to amend the Bombay Sales of Motor Spirit Taxation Act, 1946.

Bom. VI of 1946.

WHEREAS it is expedient to amend the Bombay Sales of Motor Spirit Taxation Act, 1946, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation (Amendment) Act, 1952.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1946.

Amendment of section 3 of Bom. VI of 1946.

2. In section 3 of the Bombay Sales of Motor Spirit Taxation Act, 1946 (hereinafter referred to as the said Act), in sub-section (*2*), for the figures and words "12½ per cent." the figures and words "18¾ per cent." shall be substituted.

Insertion of new section 5-A in Bom. VI of 1946.

3. After section 5 of the said Act, the following section shall be inserted, namely :—

Utilization of proceeds of tax.

"5A. (*1*) The proceeds of the tax and penalties other than fine recovered under this Act shall first be credited to the Consolidated Fund of the State.

(*2*) After deducting from the said proceeds, such sum not exceeding 50 per cent. of the said proceeds, as the State Government may determine in this behalf, the remaining amount shall be entered in and transferred to the State Road Fund

referred to in sub-section (3) of section 9 of the Bombay Motor Vehicles Tax Act, 1935, and shall, subject to the provisions of the said sub-section (3), be expended in the manner and for the purpose stated in the said sub-section (3). Bom. XXXIV of 1935.

(3) The amount transferred to the State Road Fund under sub-section (2) shall be charged on the Consolidated Fund of the State."

Amendment of section 9 of Bom. VI of 1946.

4. In section 9 of the said Act, for the word "punishable" the word "punished" shall be substituted.

Amendment of section 10 of Bom. VI of 1946.

5. (1) Section 10 of the said Act shall be renumbered as sub-section (1) of that section.

(2) After sub-section (1) so renumbered, the following sub-section shall be inserted, namely :—

"(2) Every trader required to furnish any statement under sub-section (1) shall, before the date by which such statement is submitted, pay into a Government treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act and shall furnish along with such statement a receipt from the treasury or Bank, as the case may be, showing the payment of such amount of the tax."

(3) In the marginal note to the said section, for the words "keep and maintain accounts" the words "keep accounts and submit statements" shall be substituted.

Amendment of section 11 of Bom. VI of 1946.

6. In section 11 of the said Act,—

(1) for the words "fails to keep or submit the same in the manner and at the period prescribed" the words "fails, without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements" shall be substituted ;

(2) for the word "punishable" the word "punished" shall be substituted ;

(3) for the letters and figures "Rs. 500" the letters and figures "Rs. 1,000" shall be substituted.

Substitution of sections 12 and 12A for section 12 of Bom. VI of 1946.

7. For section 12 of the said Act, the following sections shall be substituted, namely :—

Production and inspection of accounts and documents and search of premises.

"12. (1) The Collector may, for the purposes of this Act, at all reasonable times,—

(a) require any person, to whom sub-section (1) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(b) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such person, or

(c) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture.

(2) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof or for a prosecution.

Penalty for failure to comply with requirements of section 12 or obstructing officer in discharge of duties.

12A. Whoever—

(a) fails to comply with any requirement made of him under sub-section (1) of section 12, or

(b) produces false accounts, registers or documents or knowingly furnishes false information, or

(c) obstructs any officer making an inspection, search or seizure under the said section, or

(d) aids or abets any person in the commission of any act specified in clauses (a), (b) or (c) of this section—

shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention."

Amendment of section 18 of Bom. VI of 1946.

8. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted, namely :—

"(1) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed—

(i) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(ii) two thousand rupees,

whichever is greater."

Amendment of section 25 of Bom. VI of 1946.

9. In section 25 of the said Act, in sub-section (3), for the words and figures "to a fine which may extend to Rs. 50" the following shall be substituted, namely :—

"to be punished with a fine which may extend to Rs. 1,000 and in the case of a continuing contravention with an additional fine which may extend to Rs. 50 for every day during which such contravention continues after conviction for the first such contravention"

STATEMENT OF OBJECTS AND REASONS.

In order to raise more funds for the improvement of roads, Government proposes to raise the duty on motor spirit and credit a part of the proceeds to the State Road Fund. At present, the duty is leviable at a rate not exceeding 12½ per cent. As compared to the rates prevailing in other States, the rate of duty in this State is extremely low. It is therefore proposed to raise the maximum rate to 18¾ per cent. The receipts from the duty are at present credited to general revenues like all other receipts from sales tax. As motor spirit will

continue to be exempt from the tax under the Bombay Sales Tax Act, 1946, because of the duty levied under this Act, and it is necessary that like all other goods it must also contribute towards general expenditure to the extent of its liability to the usual sales tax it is proposed to credit to general revenues an amount not exceeding 50 per cent. of the receipts from the duty and credit the balance to the State Road Fund for being utilised towards improvement and modernising roads in this State.

Opportunity is also taken to carry out certain other amendments to the Act which are necessary for the reasons given below.

Notes on Clauses.

Clause 2.—This seeks to raise the rate from 4 annas per gallon to 6 annas per gallon.

Clause 3.—This provides for the receipts not exceeding 50 per cent. being retained for general revenues and the balance being credited to the State Road Fund for purposes of utilising the proceeds for modernising road surface.

Clause 5.—The new sub-section (*2*) to section 10 inserted by this clause is necessary for specifying the manner in which the tax shall be paid. At present, the procedure is laid down in the Rules. As it is an important matter, it is considered advisable to incorporate the procedure substantively in the Act itself.

Clause 6.—The existing section 11 does not provide for any penalty for keeping false accounts. The amendments seek to rectify this omission and also to enhance the penalty.

Clause 7.—The existing section 12 does not give any powers to the assessing authorities to verify the stocks of motor spirit manufactured or stored or to enter and search any premises where he has reason to believe that motor spirit is stored or kept for sale or manufacture or any powers to seize the accounts or documents relevant for any enquiry into evasion of tax. Under the Bombay Sales Tax Act, these powers are given to the authorities collecting the sales tax. It is considered desirable that similar powers should be given to the authorities collecting this tax so as to prevent evasion of tax. Accordingly, the existing section is proposed to be substituted by a new one. This clause also inserts a new section 12A specifying offences under the Act and providing penalties therefor. This new section is on the lines of a similar section (section 24) in the Bombay Sales Tax Act.

Clause 8.—Under the existing sub-section (*1*) of section 18, the Collector has to compound an offence for a sum not exceeding Rs. 500 or a sum double the amount of tax. The Collector has no discretion to vary the composition money where it exceeds Rs. 500. This involves undue hardship in certain cases. To enable the Collector to determine the composition amount on the basis of the merits of each case, it is proposed to substitute the existing sub-section suitably so that in no case the composition amount exceeds Rs. 2,000.

Clause 9.—It is proposed to amend sub-section (*3*) of section 25 to prescribe the same penalties as are provided for similar offences under the Bombay Sales Tax Act, *i.e.* a penalty of Rs. 1,000 and a further daily fine of Rs. 50 where the offence is a continuing one.

Dated the 13th June 1952. (Signed) JIVRAJ N. MEHTA.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 18th June 1952.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXI OF 1952.

A Bill to amend the Bombay Sales of Motor Spirit Taxation Act, 1946.

(As read for the third time and passed by the Legislative Assembly on the 18th July 1952.)

Bom. VI of 1946.

WHEREAS it is expedient to amend the Bombay Sales of Motor Spirit Taxation Act, 1946, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation (Amendment) Act, 1952.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1946.

Amendment of section 3 of Bom. VI of 1946.

2. In section 3 of the Bombay Sales of Motor Spirit Taxation Act, 1946 (hereinafter referred to as the said Act), in sub-section (*2*), for the figures and words "12½ per cent." the figures and words "18¾ per cent." shall be substituted.

Insertion of new section 5-A in Bom. VI of 1946.

3. After section 5 of the said Act, the following section shall be inserted, namely :—

Utilization of proceeds of tax.

"5A. (*1*) The proceeds of the tax and penalties other than fine recovered under this Act shall first be credited to the Consolidated Fund of the State.

(*2*) After deducting from the said proceeds, such sum not exceeding 50 per cent. of the said proceeds, as the State Government may determine in this behalf, the remaining amount shall be entered in and transferred to the State Road Fund

referred to in sub-section (*3*) of section 9 of the Bombay Motor Vehicles Tax Act, 1935, and shall, subject to the provisions of the said sub-section (*3*), be expended in the manner and for the purpose stated in the said sub-section (*3*). Bom. XXXIV of 1935.

(*3*) The amount transferred to the State Road Fund under sub-section (*2*) shall be charged on the Consolidated Fund of the State."

Amendment of section 9 of Bom. VI of 1946.

4. In section 9 of the said Act, for the word " punishable " the word " punished " shall be substituted.

Amendment of section 10 of Bom. VI of 1946.

5. (*1*) Section 10 of the said Act shall be renumbered as sub-section (*1*) of that section.

(*2*) After sub-section (*1*) so renumbered, the following sub-section shall be inserted, namely :—

" (*2*) Every trader required to furnish any statement under sub-section (*1*) shall, before the date by which such statement is submitted, pay into a Government treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act and shall furnish along with such statement a receipt from the treasury or Bank, as the case may be, showing the payment of such amount of the tax."

(*3*) In the marginal note to the said section, for the words " keep and maintain accounts " the words " keep accounts and submit statements " shall be substituted.

Amendment of section 11 of Bom. VI of 1946.

6. In section 11 of the said Act,—

(*1*) for the words " fails to keep or submit the same in the manner and at the period prescribed " the words " fails, without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements " shall be substituted ;

(*2*) for the word " punishable " the word " punished " shall be substituted ;

(*3*) for the letters and figures " Rs. 500 " the letters and figures " Rs. 1,000 " shall be substituted.

Substitution of sections 12 and 12A for section 12 of Bom. VI of 1946.

7. For section 12 of the said Act, the following sections shall be substituted, namely :—

Production and inspection of accounts and documents and search of premises.

" 12. (*1*) The Collector may, for the purposes of this Act, at all reasonable times,—

(*a*) require any person, to whom sub-section (*1*) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(*b*) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such person, or

(*c*) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture.

(3) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof or for a prosecution.

Penalty for failure to comply with requirements of section 12 or obstructing officer in discharge of duties.

12A. Whoever—

(*a*) fails to comply with any requirement made of him under sub-section (*1*) of section 12, or

(*b*) produces false accounts, registers or documents or knowingly furnishes false information, or

(*c*) obstructs any officer making an inspection, search or seizure under the said section, or

(*d*) aids or abets any person in the commission of any act specified in clauses (*a*), (*b*) or (*c*) of this section—

shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention."

Amendment of section 18 of Bom. VI of 1946.

8. For sub-section (*1*) of section 18 of the said Act, the following sub-section shall be substituted, namely :—

"(*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed—

(i) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(ii) two thousand rupees,

whichever is greater."

Amendment of section 25 of Bom. VI of 1946.

9. In section 25 of the said Act, in sub-section (*3*), for the words and figures "to a fine which may extend to Rs. 50" the following shall be substituted, namely :—

"to be punished with a fine which may extend to Rs. 1,000 and in the case of a continuing contravention with an additional fine which may extend to Rs. 50 for every day during which such contravention continues after conviction for the first such contravention"

STATEMENT OF OBJECTS AND REASONS.

In order to raise more funds for the improvement of roads, Government proposes to raise the duty on motor spirit and credit a part of the proceeds to the State Road Fund. At present, the duty is leviable at a rate not exceeding 12½ per cent. As compared to the rates prevailing in other States, the rate of duty in this State is extremely low. It is therefore proposed to raise the maximum rate to 18¾ per cent. The receipts from the duty are at present credited to general revenues like all other receipts from sales tax. As motor spirit will continue to be exempt from the tax under the Bombay Sales Tax Act, 1946, because of the duty levied under this Act, and it is necessary that like all other goods it must also contribute towards general expenditure to the extent of its liability to the usual sales tax it is proposed to credit to general revenues an amount not exceeding 50 per cent. of the receipts from the duty and credit the balance to the State Road Fund for being utilised towards improvement and modernising roads in this State.

Opportunity is also taken to carry out certain other amendments to the Act which are necessary for the reasons given below.

Notes on Clauses.

Clause 2.—This seeks to raise the rate from 4 annas per gallon to 6 annas per gallon.

Clause 3.—This provides for the receipts not exceeding 50 per cent. being retained for general revenues and the balance being credited to the State Road Fund for purposes of utilising the proceeds for modernising road surface.

Clause 5.—The new sub-section (*2*) to section 10 inserted by this clause is necessary for specifying the manner in which the tax shall be paid. At present, the procedure is laid down in the Rules. As it is an important matter, it is considered advisable to incorporate the procedure substantively in the Act itself.

Clause 6.—The existing section 11 does not provide for any penalty for keeping false accounts. The amendments seek to rectify this omission and also to enhance the penalty.

Clause 7.—The existing section 12 does not give any powers to the assessing authorities to verify the stocks of motor spirit manufactured or stored or to enter and search any premises where he has reason to believe that motor spirit is stored or kept for sale or manufacture or any powers to seize the accounts or documents relevant for any enquiry into evasion of tax. Under the Bombay Sales Tax Act, these powers are given to the authorities collecting the sales tax. It is considered desirable that similar powers should be given to the authorities collecting this tax so as to prevent evasion of tax. Accordingly, the existing section is proposed to be substituted by a new one. This clause also inserts a new section 12A specifying offences under the Act and providing penalties therefor. This new section is on the lines of a similar section (section 24) in the Bombay Sales Tax Act.

Clause 8.—Under the existing sub-section (*1*) of section 18, the Collector has to compound an offence for a sum not exceeding Rs. 500 or a sum double the amount of tax. The Collector has no discretion to vary the composition money where it exceeds Rs. 500. This involves undue hardship in certain cases. To enable the Collector to determine the composition amount on the basis of the merits of each case, it is proposed to substitute the existing sub-section suitably so that in no case the composition amount exceeds Rs. 2,000.

Clause 9.—It is proposed to amend sub-section (*3*) of section 25 to prescribe the same penalties as are provided for similar offences under the Bombay Sales Tax Act, *i.e.* a penalty of Rs. 1,000 and a further daily fine of Rs. 50 where the offence is a continuing one.

—

Dated the 16th June 1952. JIVRAJ N. MEHTA,

M Bk Hb 146—2

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXI OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 18th July 1952.)

A Bill to amend the Bombay Sales of Motor Spirit Taxation Act, 1946.

[Dr. JIVRAJ N. MEHTA, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

REGISTERED No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

MONDAY, 4TH AUGUST 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

PAGES

BOMBAY ACT No. XIII OF 1952—An Act to amend the Bombay Sales of Motor Spirit Taxation Act, 1946 52-54

The following Act of the Bombay Legislature having been assented to by the Governor on the 4th August 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XIII OF 1952.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 4th August 1952.)

An Act to amend the Bombay Sales of Motor Spirit Taxation Act, 1946.

Bom. VI of 1946.

WHEREAS it is expedient to amend the Bombay Sales of Motor Spirit Taxation Act, 1946, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation (Amendment) Act, 1952.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1946.

Amendment of section 3 of Bom. VI of 1946.

2. In section 3 of the Bombay Sales of Motor Spirit Taxation Act, 1946 (hereinafter referred to as the said Act), in sub-section (*2*), for the figures and words "12½ per cent." the figures and words "18¾ per cent." shall be substituted.

Insertion of new section 5-A in Bom. VI of 1946.

3. After section 5 of the said Act, the following section shall be inserted, namely :—

Utilization of proceeds of tax.

"5A. (*1*) The proceeds of the tax and penalties other than fine recovered under this Act shall first be credited to the Consolidated Fund of the State.

(*2*) After deducting from the said proceeds, such sum not exceeding 50 per cent. of the said proceeds, as the State Government may determine in this behalf, the remaining amount shall be entered in and transferred to the State Road Fund referred to in sub-section (*3*) of section 9 of the Bombay Motor Vehicles Tax Act, 1935, and shall, subject to the provisions of the said sub-section (*3*), be expended in the manner and for the purpose stated in the said sub-section (*3*). Bom. XXXIV of 1939.

(*3*) The amount transferred to the State Road Fund under sub-section (*2*) shall be charged on the Consolidated Fund of the State."

Amendment of section 9 of Bom. VI of 1946.

4. In section 9 of the said Act, for the word "punishable" the word "punished" shall be substituted.

Amendment of section 10 of Bom. VI of 1946.

5. (*1*) Section 10 of the said Act shall be renumbered as sub-section (*1*) of that section.

(*2*) After sub-section (*1*) so renumbered, the following sub-section shall be inserted, namely :—

"(*2*) Every trader required to furnish any statement under sub-section (*1*) shall, before the date by which such statement is submitted, pay into a Government treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act and shall furnish along with such statement a receipt from the treasury or Bank, as the case may be, showing the payment of such amount of the tax."

(*3*) In the marginal note to the said section, for the words "keep and maintain accounts" the words "keep accounts and submit statements" shall be substituted.

Amendment of section 11 of Bom. VI of 1946.

6. In section 11 of the said Act,—

(*1*) for the words "fails to keep or submit the same in the manner and at the period prescribed" the words "fails, without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements" shall be substituted ;

(*2*) for the word "punishable" the word "punished" shall be substituted ;

(*3*) for the letters and figures "Rs. 500" the letters and figures "Rs. 1,000" shall be substituted.

Substitution of sections 12 and 12A for section 12 of Bom. VI of 1946.

7. For section 12 of the said Act, the following sections shall be substituted, namely :—

"12. (*1*) The Collector may, for the purposes of this Act, at all reasonable times,— Production and inspection of accounts and documents and search of premises.

(*a*) require any person, to whom sub-section (*1*) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(*b*) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such person, or

(*c*) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture.

(*2*) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof or for a prosecution.

12A. Whoever— Penalty for failure to comply with requirements of section 12 or obstructing officer in discharge of duties.

(*a*) fails to comply with any requirement made of him under sub-section (*1*) of section 12, or

(*b*) produces false accounts, registers or documents or knowingly furnishes false information, or

(*c*) obstructs any officer making an inspection, search or seizure under the said section, or

(*d*) aids or abets any person in the commission of any act specified in clause (*a*), (*b*) or (*c*) of this section—

shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention."

8. For sub-section (*1*) of section 18 of the said Act, the following sub-section shall be substituted, namely:— Amendment of section 18 of Bom. VI of 1946.

"(*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed—

(i) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(ii) two thousand rupees.

whichever is greater."

9. In section 25 of the said Act, in sub-section (*3*), for the words and figures "to a fine which may extend to Rs. 50" the following shall be substituted, namely:— Amendment of section 25 of Bom. VI of 1946.

"to be punished with a fine which may extend to Rs. 1,000 and in the case of a continuing contravention with an additional fine which may extend to Rs. 50 for every day during which such contravention continues after conviction for the first such contravention."

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